



May 21, 1999

Ms. Tenley A. Aldredge
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR99-1418

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 124809.

The Travis County Sheriff (the "Sheriff") received a request for various records concerning incidents at a certain location and concerning two named individuals. You assert that portions of the requested information are excepted from required public disclosure based on sections 552.101, 552.108 and 552.130 of the Government Code.

To the extent the requestor seeks reports about a named individual as a suspect of a crime other than herself, the requestor is seeking a compilation of that individual's criminal history. The release of a compilation of offense reports in which an individual is listed as the suspect implicates that individual's common-law right to privacy. *See United States Dept ' of Justice v. Reporters Comm. For Freedom of the Press*, 489 U.S. 749 (1989), *Houston Chronicle Publishing Co.*, 531 S.W.2d at 179. Accordingly, the Sheriff must not release such a compilation. Gov't Code § 552.101; *see also Industrial Found. of the S. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). We have marked the documents accordingly.

You raise section 552.108(a)(1) of the Government Code for Incident Report No. 9898001984. Section 552.108 of the Government Code states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). You inform us that the requested information pertains to a pending case. We therefore believe that the release of the information "would interfere with the detection, investigation, or prosecution of crime." *Id.*

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of the basic front page offense and arrest information, you may withhold Incident Report No. 9898001984 from disclosure based on section 552.108(a)(1). We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

You raise section 552.108(a)(2) of the Government Code for the remaining reports. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Based on the information you provided, we understand you to assert that the requested information pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable. Again, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Thus, with the exception of the basic front page offense and arrest information, you may withhold the information in the three reports from disclosure based on section 552.108(a)(2).

You also ask whether Incident Reports Nos. 9898002628 and 9898001984 contain information made confidential under section 262.201 of the Family Code. Section 261.201 reads in part as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

We have reviewed the information in these two reports and conclude that the information does not consist of reports, records, and working papers used or developed in an investigation made under chapter 261 of the Family Code. Accordingly, the Sheriff may not withhold the information from disclosure pursuant to this Family Code provision.

One of the reports, Incident Report No. 970042680, implicates the common-law privacy rights of an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Section 552.101 of the Government Code excepts from required public disclosure information considered to be confidential by law, including information made confidential by judicial decision recognizing the common-law right to privacy. *See id.* We have marked the portions of the report that the Sheriff must withhold from disclosure to protect an individual's common-law privacy rights.

Finally, you raise section 552.130 of the Government Code, which generally excepts from disclosure, among other things, information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state and a motor vehicle title or registration issued by an agency of this state. We agree that this exception applies to the driver's license numbers on the reports. Section 552.130 also applies to VIN and license plate numbers, which we have marked on Incident Report No. 9898001984.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Kay H. Hastings
Assistant Attorney General
Open Records Division

KHH/eaf

Ref.: ID# 124809

encl. Marked documents

cc: Ms. Suzane Azzano
5914-B Westcreek Drive
Austin, Texas 78749
(w/o enclosures)